

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION**

**Case No. 9:24-cv-80713-RLR**

SCOTT L. and ELENA SHLEIFER,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant.

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**PLAINTIFFS' RULE 56.1 STATEMENT OF MATERIAL FACTS**  
**IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and Rule 56.1 of the Local Rules of the United States District Court for the Southern District of Florida, Plaintiffs Scott L. and Elena Shleifer (collectively, "Plaintiffs"), by and through their attorneys, Kostelanetz LLP, respectfully state that the following are material facts as to which there is no genuine issue to be tried:

**I. Parties and Jurisdiction**

1. Plaintiffs are a married couple. Answer to Complaint ("USA Answer"), ECF No. 21 at ¶ 1.
2. Defendant is the United States of America, acting through its agency, the Internal Revenue Service ("IRS"). USA Answer, ECF No. 21 at ¶ 2.
3. The Court has jurisdiction over this matter. USA Answer, ECF No. 21 at ¶ 3.

**II. Scott Shleifer's Business Activities**

4. In 2014, Mr. Shleifer was a partner in the privately-held investment firm Tiger

Global Management, LLC (“TGM”). Exhibit A, Shleifer deposition, p. 28/lines 13-19.

5. In 2014, in connection with his position at TGM, Mr. Shleifer frequently travelled both domestically and abroad to attend meetings with business executives, tour business facilities, and research new and existing investment opportunities. Exhibit A, Shleifer deposition, p. 24/line 18 through p. 26/line 9.

6. From November 20, 2014 to November 24, 2014, Mr. Shleifer flew round-trip from Teterboro, New Jersey to Shanghai, with stops in Beijing and in Anchorage. Exhibit B, Summary of Travel, SHLEIFER000007; Exhibit A, Shleifer deposition, p. 45/line 13 through p. 47/line 20.

7. On that trip to China, Mr. Shleifer met in Beijing with Ms. Liu Nan of the Chinese company Miyababy. Exhibit C, 2014 Travel Emails, TGM-000023.

8. At the time Mr. Shleifer met with Miyababy, TGM was considering making an investment in the company. Exhibit C, 2014 Travel Emails, TGM-000023.

9. On the same trip to China, Mr. Shleifer met in Beijing with Alex Zhou of the Chinese company Nice on behalf of TGM. Exhibit C, 2014 Travel Emails, TGM-000023.

10. On the trip to China, Mr. Shleifer also met in Beijing with Vincent Mo of the Chinese company SouFun on behalf of TGM. Exhibit C, 2014 Travel Emails, TGM-000025—TGM-000026.

11. On the trip to China, Mr. Shleifer met and travelled from Beijing to Shanghai with senior executives of the Chinese company JD.com. Exhibit A, Shleifer deposition, p. 45/line 13 through p. 47/line 20; p. 58/lines 5-16; Exhibit B, Summary of Travel, SHLEIFER000007.

12. At the time Mr. Shleifer met with JD.com, the company represented TGM's largest single financial investment. Exhibit A, Shleifer deposition, p. 46/lines 4-10.

13. To accommodate his significant travel, Mr. Shleifer often flew privately rather than commercially, because private air travel offers increased efficiency, a reduction in total travel time, and the ability to fly at more convenient times. Exhibit A, Shleifer deposition, p. 62/line 12 through p. 63/line 21.

14. Pursuant to an agreement and/or routine practice, TGM required Mr. Shleifer to personally pay for any private air travel for partnership business purposes. Exhibit A, Shleifer deposition, p. 35/line 25 through p. 36/line 2; p. 36/line 13 through p. 37/line 3; p. 37/lines 11-23; Exhibit D, Seidell Declaration, TGM-000002 ¶ 12.

### **III. Purchase of the Aircraft**

15. In 2014, Mr. Shleifer was the sole owner of SLS Travel LLC ("SLS Travel"), an entity which holds his business travel assets. Exhibit E, Def. response to Requests for Admission ("RFA"), No. 8; Exhibit A, Shleifer deposition, p. 22/lines 11-14.

16. On November 3, 2014, SLS Travel purchased a 37.5% undivided interest in a Global 6000 business aircraft (the "Aircraft"). Exhibit F, NetJets Purchase Agreement, NJ\_003; Exhibit E, RFA No. 10.

17. The purchase price of the aircraft was \$19,687,500. Exhibit F, NetJets Purchase Agreement, NJ\_003.

18. On September 5, 2014, SLS Travel paid \$2,941,000 of this amount via deposits and other means. Exhibit F, NetJets Purchase Agreement, NJ\_011.

19. On November 3, 2014, SLS Travel paid the remaining \$16,746,500 via wire transfer. Exhibit G, SLS Travel Bank Statement, SHLEIFER000006.

20. SLS Travel incurred \$52,601 in legal fees associated with purchasing the aircraft and registering it with the FAA. Exhibit H, Legal Invoices, SHLEIFER000207—SHLEIFER000217.

21. On November 3, 2014, SLS Travel paid those legal fees. Exhibit G, SLS Travel Bank Statement, SHLEIFER000005.

22. Neither Mr. Shleifer nor SLS Travel was reimbursed by TGM for the costs associated with purchasing the Aircraft, or for any other costs associated with the Aircraft. Exhibit D, Seidell Declaration, TGM-000002 ¶ 13.

23. Pursuant to TGM travel policy, Mr. Shleifer was not eligible to seek reimbursement for the costs associated with purchasing the Aircraft, or for any other costs associated with the Aircraft. Exhibit D, Seidell Declaration, TGM-000012—TGM-000013.

#### **IV. Depreciation Deduction**

24. In 2014, Mr. Shleifer flew on the Aircraft for a total of 54.1 hours. Exhibit I, NetJets Invoices, NJ\_290 and NJ\_292.

25. Of those 54.1 total hours, 31.1 hours were attributable to a round-trip flight from the United States to China described in ¶¶ 6-12, above. Exhibit B, Summary of Travel, SHLEIFER000007.

26. The Aircraft has a recovery period of five years. Exhibit E, RFA No. 13.

27. The appropriate depreciation convention for the Aircraft is the 200% Declining Balance Method with Mid-Quarter Convention (“200 DB-MQ”). Exhibit E, RFA No. 14.

#### **V. Claim for Refund**

28. On or around October 14, 2015, Plaintiffs timely filed a Form 1040 (Individual

Income Tax Return) for tax year (“TY”) 2014 and reported a tax liability. USA Answer, ECF No. 21 at ¶ 12.

29. Plaintiffs elected to file their 2014 Form 1040 jointly as a married couple. USA Answer, ECF No. 21 at ¶ 13.

30. Plaintiffs fully paid the tax reported on their 2014 Form 1040. USA Answer, ECF No. 21 at ¶ 14.

31. On or around October 9, 2018, Plaintiffs timely filed a Form 1040X (Amended U.S. Individual Income Tax Return) for TY 2014 which reported a tax liability \$1,898,786 less than the liability reported on Plaintiffs’ original 2014 Form 1040. USA Answer, ECF No. 21 at ¶ 15.

32. Included in Plaintiffs’ 2014 Form 1040X was a completed Form 4562 which reported the depreciation deduction related to the Aircraft in the total amount of \$5,917,589. Exhibit E, RFA No. 16; Exhibit J, 2014 Form 1040X, SHLEIFER00062 – 000063.

33. The reduced tax liability was the result of the \$5,917,589 depreciation deduction in connection with the business use of the Aircraft. Exhibit J, 2014 Form 1040X, SHLEIFER000022; SHLEIFER000062 – 000063; Exhibit K, Ablamsky deposition p. 85/line 23 through p. 86/line 3.

34. The IRS opened an examination of Plaintiffs’ 2014 Form 1040X. USA Answer, ECF No. 21 at ¶ 17.

35. On July 6, 2022, the IRS issued Plaintiffs a statutory notice of disallowance, denying Plaintiffs’ deduction related to the Aircraft in full, and denying Plaintiffs’ claim

of a \$1,898,786 overpayment of their TY 2014 tax liability. USA Answer, ECF No. 21 at ¶ 20.

36. The IRS did not adjust any other item on Plaintiffs' 2014 tax return, as amended. Exhibit M, Report of Income Tax Examination Changes, IRS-00000006—IRS-00000007.

Dated: April 14, 2025  
New York, New York

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**Certificate of Service**

**I hereby certify** that a true and correct copy of the foregoing was served by CM/ECF filing on April 14, 2025 on all counsel or parties of record on the Service List below.

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